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Via Certified U.S. Mail, Return Receipt Requested # 7010 0780 0001 9016 5775

Mr. Zac Covar
Executive Director
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78753

Re: *Exide Interim Action Work Plan Slag and Battery Case Fragment Removal and Disposal
Exide Technologies Frisco Recycling Center, Frisco, Texas TCEQ Agreed Order Docket
No. 2011-1712-IHW-E; IHW Permit No. HW-50206; TCEQ SWR No. 30516; Customer
No. CN600129779; Regulated Entity No. RN100218643; EPA ID No. TXD006451090;
EPA Administrative Order on Consent RCRA 06-2012-0966*

Dear Mr. Covar:

The City of Frisco ("City") has reviewed the above referenced document which was submitted to TCEQ and EPA on November 7, 2013. The City has also reviewed the TCEQ approval letter dated December 17, 2013. While the City agrees that Exide must address the slag and battery chip contamination of Stewart Creek downstream of the former Exide facility, the City does have some fundamental concerns with the above referenced Work Plan. The City believes the TCEQ approval letter should be modified to address these concerns.

Of primary concern to the City is the apparent conflict between some activities suggested in the Work Plan and the current VCP projects the City has undertaken to address portions of Stewart Creek that have been impacted by Exide's wastes. There are three active VCP projects (VCP ID # 2122, VCP ID #2592, and VCP ID # 2632) and one more to be filed shortly.

VCP ID # 2122 relates to the former Stewart Creek wastewater treatment plant site immediately downstream of Exide's property. This property was contaminated by Exide wastes prior to the WWTP closure in the 1990s. The other VCP projects relate to the City's Grand Park (also known as Grand Lakes) development which is further downstream. A major portion of Stewart Creek downstream of the Exide site is covered by these VCP projects.

Based on previous discussions with you, it has been the City's understanding that TCEQ is providing overall management review of all of these projects to assure coordination between the various TCEQ staff sections involved. Based on Mr. Beyer's December 17 approval letter, it does not appear such coordination is actually taking place since Exide's Work Plan clearly does not address the situation in as comprehensive a manner as that proposed in the City's VCP applications. Mr. Beyer's approval letter also appears to be in conflict with the December 17, 2013 TCEQ VCP staff directive for additional work on the Stewart Creek WWTP VCP project to address Exide's historic contamination of Stewart Creek. Given the number of TCEQ staff members involved in the various Exide related projects, the City agrees that executive level TCEQ management of the overall Exide situation is required to assure coordination of the various investigation and remediation projects.

Based on the City's initial investigation of Stewart Creek for contamination from Exide's wastes, the segments of the stream impacted above background include City property, private property, and USACE property. Data from that investigation has been previously provided to TCEQ. The data was also provided to Exide prior to its submittal of the above referenced document. The City's VCP applications provide the type of comprehensive work plan protocols that should be required for proper investigation and remediation of Stewart Creek. The City believes that those portions of Stewart Creek outside of the City's control should be investigated and remediated by Exide under the same protocols.

The City notes initially that Exide's proposed Work Plan does not reference any regulatory guidance to support the proposal. In contrast the City previous investigations have generally followed applicable TCEQ guidance, such as the *Surface Water Quality Monitoring Procedures, Volume 1: Physical and Chemical Monitoring Methods* (RG-415), revised August 2012. The City believes that Exide should be required to follow this and other applicable TCEQ guidance in its investigation of Stewart Creek.

Generally, Exide is proposing to conduct a visual inspection of the streambed, take limited surface samples, and remove any slag or battery chips found. The slag and battery chips are Exide waste (whether pre or post-RCRA) that was improperly disposed. This includes slag and battery chips that were disposed without regulatory authorization even though the waste came from a RCRA permitted facility. Both that waste and associated contaminated media must be removed regardless of the time it may have been disposed in Stewart Creek.

Given the documented history of slag and battery chip contamination of Stewart Creek by Exide, the Work Plan protocol is not sufficient to identify and remove all of the contamination. A systematic, comprehensive sediment sampling protocol should be implemented. This protocol should include: (1) minimum distance between samples; (2) preferential collection of fine grained sediment rather than sand/gravel; and (3) testing for all contaminants of concern that could have originated from the Exide site.

Following identification of all contaminated areas, complete removal of contaminated sediment to appropriate ecological PCLs is required to satisfy public concern since the Grand Lake project will include much of this area. Simply removing the slag and battery chips will not remove the residual sediment contamination.

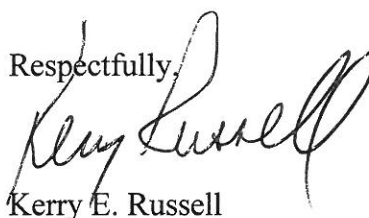
After remediation is completed by the City and Exide, Exide should be required to evaluate the Stewart Creek drainage area every six months for a minimum period of five (5) years. This time frame should be extended if subsequent recontamination of Stewart Creek is discovered. Given Exide's current bankruptcy situation, Exide should also be required to post financial assurance during the same timeframe to cover the monitoring costs and any subsequent remediation that might be required.

The City is incorporating into its Grand Lake project sedimentation basins upstream of the public access areas of the park to assure no future contamination from the Exide site reaches public areas. This is a necessary preventative measure given the current uncertainty regarding final closure requirements for the Exide site.

The City will continue to work in cooperation with Exide to assure Stewart Creek is properly investigated and remediated. To that end the City has authorized Exide to access City controlled property for investigation activities and has assisted Exide with similar private property access. However, the City will insist on control of all remediation activities on City property to assure removal of all Exide related contamination to appropriate levels is achieved.

The City appreciates TCEQ's continued assistance in this regard. If you, or your staff, have any questions in regard to this submittal, please do not hesitate to call Mack Borchardt at 972-292-5127 or me at 512-633-6467.

Respectfully,



Kerry E. Russell

Cc: Bret Wade, TCEQ
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